

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

WILLIAM J. YOST,	)	
	)	
Plaintiff,	)	8:10CV197
	)	
v.	)	
	)	
I.B.E.W. LOCAL NO. 22, OMAHA	)	ORDER
ELECTRIC SERVICE, INC., GARY KELLY	)	
and EDWARD J. CIZEK III,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the court on defendant Gary Kelly's motion to dismiss the amended complaint pursuant to Fed. R. Civ. P. 12(b)(6). Filing No. [26](#). Also before the court is a motion to dismiss the amended complaint filed by defendants Edward J. Cizek, III, and Omaha Electric Service. Filing No. [21](#).<sup>1</sup> Following the filing of these two motions, plaintiff William Yost filed a motion to dismiss defendants Omaha Electric Service, Inc.; Gary Kelly, individually; and Edward Cizek, individually, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(I). Filing No. [43](#). The court has carefully reviewed the matter and finds motion to dismiss all three defendants, Filing No. [43](#), should be granted.

THEREFORE, IT IS ORDERED:

1. Defendants' motion to dismiss the complaint, Filing No. [16](#), is denied as moot;
2. Defendants' motion to dismiss, Filing No. [21](#), is denied as moot;
3. Defendant's motion to dismiss, Filing No. [26](#), is denied as moot; and
4. Plaintiff's motion to dismiss, Filing No. [43](#), is granted. Defendants Omaha Electric Service, Inc., Gary Kelly (individually), and Edward J. Cizek (individually) are dismissed from this lawsuit.

DATED this 19<sup>th</sup> day of October, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge

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<sup>1</sup>There is also a pending motion to dismiss, Filing No. [16](#), that the court will deny as moot.